

Message Text

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FOLLOWING REPEAT PARIS 26616 ACTION SECSTATE INFO VIENNA
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QUOTE LIMITED OFFICIAL USE PARIS 26616

FOLLOWING FROM AMCONSUL STRASBOURG

E.O. 11652: N/A

TAGS: COE XG PINS

SUBJECT: COUNCIL OF EUROPE DRAFT CONVENTION ON THE
SUPPRESSION OF TERRORISM

REF: (A) STATE 221450; (B) STRASBOURG A-55

1. HERIBERT GOLSONG, DIRECTOR OF THE OFFICE OF LEGAL
AFFAIRS OF THE COUNCIL OF EUROPE, DISCUSSED THE PROBLEMS
POSED BY ARTICLE 5 IN THE DRAFT EUROPEAN CONVENTION ON
THE SUPPRESSION OF TERRORISM. HIS FIRST COMMENT WAS
THAT ARTICLE 5 INDEED REPRESENTS A LOOPHOLE IN THE
ENFORCEMENT OF THE CONVENTION. WHEN ORIGINALLY DRAFTED,
THE CONVENTION WAS MEANT TO BE OPEN TO ALL STATES;
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THEREFORE CERTAIN MEMBERS INSISTED THAT THIS PROVISION

BE INSERTED. COMMENT: THE GERMANS INSISTED ON THIS PROVISION BECAUSE OF THEIR FEAR THAT SHOULD EAST GERMANY SIGN THE CONVENTION, THEY COULD OBLIGE THE FEDERAL REPUBLIC TO HAND OVER POLITICAL REFUGEES WHO HAD FLED EAST GERMANY. END COMMENT.

2. GOLSONG HIMSELF RAISED THE CASE OF SPANISH ADHERENCE TO THE TREATY, WHICH WOULD CAUSE SIMILAR PROBLEMS FOR A NUMBER OF MEMBER STATES OF THE COUNCIL.

3. AFTER ARTICLE 5 HAD BEEN ADOPTED, THE MEMBERSHIP DECIDED THAT THE TREATY WOULD BE PRACTICALLY USELESS IF IT WERE OPEN TO SIGNATURE OF ALL STATES. THEREFORE THE CLAUSE ON ACCESSION WAS DELETED. NEVERTHELESS, ARTICLE 5 REMAINED, AND GOLSONG BELIEVES THAT IT COULD NOT BE REMOVED NOW WITHOUT NEGOTIATION THE ENTIRE TREATY AGAIN. HOWEVER, HE STATES THAT A NEAR CONSENSUS EXISTS AMONG THE MEMBERS ON WHAT TERRORISM IS AND HOW TO DEAL WITH IT AND THAT ARTICLE 5 WOULD BE INTERPRETED RESTRICTIVELY BY THE SIGNATORY STATES. HE ALSO POINTS TO ARTICLE 7, WHICH PROVIDES THAT SHOULD A STATE REFUSE TO EXTRADITE A PERSON UNDER THE TERMS OF ARTICLE 5, IT MUST NEVERTHELESS SUBMIT THE CASE TO ITS OWN AUTHORITIES "FOR THE PURPOSE OF PROSECUTION."

4. IN FURTHER DISCUSSION ON THE BACKGROUND OF THE CASE, GOLSONG SAID THAT APPROVAL OF THE TREATY BY THE COUNCIL OF MINISTERS HAD BEEN BLOCKED BY THE FRENCH WHO FEEL THAT THEIR APPROVAL WOULD SOMEHOW UNDERCUT THEIR POSITION WITH THE ARAB COUNTRIES. HE THINKS, HOWEVER, THAT A CHANGE IN POSITION IS BEING STUDIED BY THE NEW FRENCH GOVERNMENT, WHICH MAY DECIDE TO ABSTAIN ON ADOPTION OF THE TREATY, THEREBY OPENING IT TO SIGNATURE BY OTHER MEMBER STATES.

5. THIS TELEGRAM IS SENT THROUGH PARIS BECAUSE OF THE LACK OF CLASSIFIED FACILITIES AT STRASBOURG. RUSH UNQUOTE HABIB

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